

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF NEW YORK

In re

BAILEY DELEVAN MINI MALL, INC. Case No. 91-10292 K

Debtor

WILLIAM E. LAWSON, Trustee in
Bankruptcy of Bailey Delevan Mini
Mall, Inc.

Plaintiff

-vs-

AP 94-1150 K

VIRGINIA MURRAY, PIER J. MURRAY and
ALAN D. GOLDSTEIN, Individually and as
Trustee and Escrow Agent of Funds held
for the benefit of Pier J. Murray and
the Debtor's Bankruptcy Estate

Defendant

William E. Lawson, Esq.
Aaron, Dautch, Sternberg & Lawson
500 Convention Tower
Buffalo, New York 14202

Attorney for Plaintiff

Alan D. Goldstein, Esq.
42 Delaware Avenue, Suite 525
Buffalo, New York 14202

Attorney for Defendants

The Court took under submission the matter of service of process on the Defendant, Pier Murray, who is on active duty in the military, serving abroad.

Since there is no provision of the Soldiers' and Sailors' Civil Relief Act of 1940, 50 U.S.C. Appendix § 521 et seq., that purports to supersede the general rules regarding service of process, and since § 200 of that act contemplates the possibility of entry of judgment against servicepersons (other than default judgment), the Court concludes that it is the Plaintiff's option to

proceed under "normal" service rules or under any special methods of service that might be available through military channels. Here, where Defendant has made a limited appearance challenging whether in personam jurisdiction has been obtained on the basis that she is not a resident of New York, this Court must stay the proceeding as to her under 50 U.S.C. Appendix § 521 until she is available to be examined on that question.

The Plaintiff is to submit a suitable order incorporating such stay.

Dated: Buffalo, New York
November 15, 1994

/s/Michael J. Kaplan

U.S.B.J.